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Indians

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available or are not provided in an effective or satisfactory manner, or which has as its primary purpose enhancement of the educational experience of Indian students and is only incidentally commercial in nature.

(e) "IMPL funds" means all miscellaneous revenues included within the definition of IMPL receipts under § 113.3 of this part which are covered into the U.S. Treasury as federal trust funds under Account 14X8500, Indian Moneys, Proceeds of Labor.

(f) "Pub. L. 638" means the Indian Self-Determination Act, Act of January 4, 1975, Title I, Pub. L. 93-638 (25 U.S.C. 450 et seq.).

(g) "Project basis" means a short-term Bureau program at an agency or school aimed at a specific objective which can usually be accomplished within one year's time, and which supplements on-going Bureau programs of a more permanent nature.

(h) "School" includes any school operated directly by the Bureau or by an Indian tribe or organization pursuant to a Pub. L. 638 contract except that tribally controlled previously private contract schools are not included within the term "school" for the purpose of § 113.3(a)(1) of this part.

(i) "School Supervisor" means the Bureau official in charge of a Bureau school.

§ 113.3 Sources of IMPL funds.

(a) IMPL receipts include—

(1) All miscellaneous revenues collected on behalf of the Bureau through Bureau agencies and schools as income from the sale of goods or services by the Bureau, gross receipts from leases, rentals, permits, licenses, and fees for the use of Federal lands, facilities, and property and revenues from other Bureau activities, including gross receipts from activities financed by appropriated funds, except as otherwise provided by Federal statute superseding 25 U.S.C. 155; and

(2) Interest from the investment of IMPL funds.

(b) IMPL receipts do not include—

(1) Special deposits and interest on special deposits except to the extent provided under Part 114;

(2) Funds belonging to individual Indians or Indian tribes;

(3) Fees collected under 25 U.S.C. 413 to cover the cost of work performed by the Bureau of Indian Affairs for Indian tribes or individual Indians;

(4) Fees collected under 40 U.S.C. 490 (k) as charges for space and services in Bureau facilities not in excess of actual operating and maintenance costs of providing such space or services; or

(5) Fees collected from the lease of federal buildings or the sale of supplies, equipment, or services to other government bureaus and departments under 31 U.S.C. 686 (b) or 40 U.S.C. 303b.

§ 113.4 Collection and deposit of IMPL funds.

IMPL receipts will be handled in accordance with the procedures set forth in Chapter 3—Collections, Title 7 Fiscal Procedures, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. IMPL receipts will be deposited to appropriate income codes for Activity 2660, "IMPL", as contained in the Bureau Financial Management Accounts Handbook, as revised.

§ 113.5 Investment of IMPL funds.

IMPL funds not immediately required for expenditure will be invested by the Bureau as part of its regular investment program and will remain invested until notice is given that the funds are being allotted from the trust account for expenditure under an approved program plan.

§ 113.6 Expenditure and use of IMPL funds.

(a) IMPL funds may be used only for the benefit of the agency or school for which such receipts were collected, and in accordance with an approved program plan under § 113.7.

(b) IMPL funds may only be expended for a program or project at an agency or school for which the Bureau has statutory authority to operate and for which funding has been appropriated in the current fiscal year. They can not be used to fund programs or projects specifically reduced or disallowed by the Congress. IMPL funds

may be expended directly by the Bureau or pursuant to a Pub. L. 93-638 contract covering tribal operation of an authorized agency or school program or project.

§ 113.7 Development and approval of IMPL use plans.

(a) Each agency superintendent, school supervisor, or other Bureau official responsible for a Bureau school or agency shall submit an annual IMPL program plan for the expenditure of IMPL funds held for, and IMPL receipts accruing to, such agency or school. Program plans will be developed within the budget cycle and will utilize guidelines, formats, exhibits, justifications, costs principles, and other procedures developed within the Bureau's financial management system.

(b) Each program plan shall be reviewed and approved or disapproved by the Bureau official having direct line authority over such agency superintendent, school supervisor, or other appropriate Bureau official.

(c) All expenditures of IMPL funds shall be in accordance with such program plan and any amendments or revisions thereto. Expenditures under "IMPL" use plans are subject to the same audit, review, and investigation as expenditures of appropriated funds under other Bureau programs.

§ 113.8 Limitations on use of IMPL funds.

(a) IMPL funds may not be expended as part of a Pub. L. 638 grant, but may be expended under a separate Pub. L. 638 contract which supplements a program pursuant to a Pub. L. 638 grant.

(b) IMPL funds will not be expended for the construction or major alteration and improvement of Federal facilities, except as specifically authorized in the Bureau's annual budget or in case of emergency approved by the Commissioner of Indian Affairs.

(c) IMPL funds may not be expended to acquire lands for tribes or for the construction of tribal facilities, or for the operation and maintenance of tribal facilities except where such expenditure represents a portion of Bureau program costs in situations

where such costs are paid by the Bureau in lieu of rent.

(d) IMPL funds may not be expended for any other use which, from time to time, may be excluded by executive order or by administrative limitations issued by the Secretary of the Interior, or his authorized representative.

PART 114—SPECIAL DEPOSITS

Sec.

114.1 Purpose and scope.

114.2 Definitions.

114.3 Investment of special deposit funds.

114.4 Payment and distribution of interest on special deposit funds.

114.5 Distribution of IMPL Escrow Account.

AUTHORITY: 25 U.S.C. 2; 25 U.S.C. 9; Pub. L. 97-100; and Pub. L. 97-257.

SOURCE: 48 FR 48808, Oct. 21, 1983, unless otherwise noted.

§ 114.1 Purpose and scope.

The purpose of these regulations is to set forth the conditions governing the deposit, investment, and distribution of interest on funds held by the Bureau in special deposits; and to provide procedures required for determination of ownership and distribution of funds which are on deposit in account 14X6703 "Indian Moneys Proceeds of Labor Escrow Account—Pending Determination of Ownership".

§ 114.2 Definitions.

(a) "Agency" means any field office of the Bureau officially designated as an Indian agency and which provides direct services at the local level to Indians and Indian tribes, who are recognized by the Bureau as eligible for federal services to Indians because of their status as Indians.

(b) "Agency IMPL Escrow Account" means that portion of the funds in 14X6703 identifiable to that agency.

(c) "Beneficiary" means a potential beneficiary who has signed an acceptance.

(d) "Bureau" or "BIA" means the Bureau of Indian Affairs, Department of the Interior.

(e) "Claimant" means an individual (or a tribe) who asserts an entitlement to a share of the IMPL Escrow Ac-

count but has not been determined as a potential beneficiary.

(f) "IMPL Escrow Account" means account 14X6703, Indian Moneys, Proceeds of Labor Escrow Account—Pending Determination of Beneficiaries, U.S. Treasury.

(g) "Potential Beneficiary" means an individual or tribe determined eligible to share in the IMPL Escrow Account provided a proper acceptance is received on behalf of the individual or tribe involved.

(h) "Principal account" means each separate payment or deposit of money to the Bureau which is held as a special deposit.

(i) "Special deposit" means any suspense account used for the temporary deposit of funds which cannot be credited to specific accounts or readily distributed, including, but not limited to:

(1) Advance deposits;
(2) Advance deposits on other leases and permits for such Indian lands;

(3) Advance payments and advance deposits required on sales of timber and other natural resources from such Indian lands;

(4) Deposits for rights of way over such Indian lands and anticipated right-of-way damages held until such damages are determined; and

(5) Deposits for grazing fees on such Indian lands.

(j) "Special deposit funds" means those funds held in special deposits.

(k) "Superintendent" means the Bureau official in charge of a Bureau agency.

§ 114.3 Investment of special deposit funds.

It is the policy of the Bureau to invest all special deposit funds which have been paid to the Bureau on behalf of Indians or Indian tribes pending the eventual payment for the sale, lease, or other transfer of tribal or individual Indian property and funds which are deposited solely for the purpose of guaranteeing performance.

§ 114.4 Payment and distribution of interest on special deposit funds.

(a) It is the general policy of the Bureau that interest and earnings from the investment of special deposit

funds be credited to the principal accounts upon which the interest was earned.

(b) At the time that a withdrawal is made from a special deposit account, the interest earned by the principal account being withdrawn will be computed and withdrawn from the account as a part of the same transaction. The interest earned by the subject principal amount will be computed into two parts:

(1) The portion of interest credited during the prior interest period which was attributable to this principal, and

(2) The portion of interest which has been earned by this principal amount but has not yet been credited to the account because the interest period is not complete. This will be computed by using the month-end balances since the last interest period times the last period's factor.

(c) No interest will be distributed to accounts which have less than the minimum average month-end balances as determined by the Division of Accounting Management. Any such interest not distributed would remain in the undistributed interest account at the Bureau level to be included in determining the next six month interest factor.

§ 114.5 Distribution of IMPL Escrow Account.

(a) *Determination of potential beneficiaries.* Each agency will determine the potential beneficiaries and their respective shares of the IMPL Escrow Account at that agency by the following method:

(1) Identify the unobligated balance in the agency IMPL account as of September 30, 1982, and interest accrued for the period ending September 30, 1982, which has subsequently been transferred into account 14X6703 IMPL Escrow Account Pending Determination of Ownership. This amount will be called the agency IMPL Escrow Account balance.

(2)(i) Identify the length of time which has been required to accumulate actual income into the former IMPL account to equal the current agency IMPL escrow account balance.

(ii) To determine the beginning date for ownership computations, subtract the length of time identified in paragraph (a)(2)(i) of this section from April 1, 1981. (Subsequent to April 1, 1981, interest earned on special deposits has been credited directly to each special deposit account rather than to an IMPL account.)

(3) Examine the Individual Indian Money (IIM) accounts to determine the total dollars transferred to each account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(4) Examine tribal treasury account records to determine the total dollars transferred to each tribal trust account from the principal in special deposit accounts during the period identified in paragraph (a)(2) of this section.

(5) Determine the percentage of the principal transferred from special deposit accounts into each IIM and tribal trust account. This is done by dividing the total amount of principal transferred from special deposit accounts into all accounts at the agency into the total computed for each IIM and tribal trust account pursuant to paragraphs (a)(3) and (a)(4) of this section. The formula is as follows:

Dollars transferred into an account		Percent share for that account
Total dollars transferred by agency into all accounts	=	

(6) Multiply this percentage by the agency IMPL Escrow Account balance to determine each potential beneficiary's share of that balance. Should this determined share be less than ten dollars (\$10.00) no transfer of funds will be made.

(7) The formula identified in paragraph (a)(5) of this section will be used in determining potential shares unless there are clear and available records at the agency level to identify specific amounts. If the records are used by the agencies they must be

made available for public review upon request.

(b) *Notification of Determination of Potential Beneficiaries.* Upon completion of the determination of all potential beneficiaries of an agency IMPL Escrow Account, the Superintendent shall publish a general notice which shall contain the following:

(1) Brief history of agency IMPL Escrow account;

(2) Explanation of method of determination of potential beneficiaries;

(3) Information on availability of specific data;

(4) Instruction to potential beneficiaries on completion of acceptance forms, explaining that only those who complete the acceptance forms can receive any funds; and

(5) Establishment of deadline date by which potential beneficiaries must complete the acceptance forms to receive the funds. This deadline will be 180 days from the date of the general notice. This general notice shall be published in the usual and customary manner for making public such documents. If such usual and customary publication does not include posting on the agency bulletin board and publication in at least one local newspaper of general distribution, the posting on the bulletin board and local newspaper publication shall be done in addition to the usual and customary manner of publication.

(c) *Acceptance by potential beneficiary.* Before the funds identified in paragraph (a) of this section as transferable to a potential individual or tribal beneficiary can be deposited into that potential beneficiary's account the following must be completed:

(1) The potential beneficiary must sign an acceptance of the determination by the Secretary which shall constitute a complete release and waiver of any and all claims by the potential beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982.

(2) The acceptance must be signed during the 180 days between the date of the general notice provided for in paragraph (b) of this section and the deadline date established therein.

(3) In the case of a potential tribal beneficiary, the acceptance must be accompanied by a resolution of the appropriate tribal entity approving the acceptance and authorizing the designated tribal representative(s) to sign the acceptance. An acceptance on behalf of an estate account may be signed by the Superintendent if the determination of heirs has not become final and may be signed on behalf of individual inherited shares by each heir if the probate determination has become final. An acceptance on behalf of a minor may be signed by a parent, guardian or a person acting *in loco parentis*. An acceptance on behalf of an adult who has been determined legally incompetent or in need of assistance in managing his/her affairs pursuant to 25 CFR 115.9 may be signed by his/her authorized representative.

(d) *Distribution.* (1) After the expiration of the deadline established in paragraph (b) of this section, funds of individual beneficiaries who have completed the acceptance forms will be transferred from the IMPL Escrow Account into each beneficiary's IIM account. Funds derived from beneficiary estate accounts for which the heirs have been determined will be transferred into the heirs' accounts. Funds derived from beneficiary estate accounts for which the heirs have not been determined will be transferred into the estate account.

(2) Interest accrued for any period after October 1, 1982 will be credited to the beneficiary accounts on the same percentage basis as the original share.

(3) After the expiration of the deadline established in paragraph (b) of this section, funds of a tribal beneficiary and interest earned thereon since October 1, 1982 will be transferred into the appropriate tribal treasury account.

(4) Not more than ten percent (10%) of the funds which may be transferred to a trust account for any tribe, or to an IIM account for an individual, may be utilized by the beneficiary to pay for legal or other representation relating to claims for such funds.

(5) Not more than two percent (2%) of the funds which may be transferred to a trust account for any tribe, or to

an IIM account for an individual, may be utilized by the BIA to reimburse the BIA for administrative expenses incurred in determining ownership of the funds.

(e) *Appeals.* (1) Any potential beneficiary or claimant may appeal any decision made or action taken by a Superintendent under this section. Such appeal shall be made in writing and submitted as provided in 25 CFR Part 2.

(2) As provided in Part 2, the appeal must be received within 30 days after receipt of the written notice advising the potential beneficiary of his/her share of the IMPL Escrow account or advising the claimant that no share has been determined for him/her. No appeals will be accepted under this section after September 30, 1985.

(f) *Distribution of residual funds.* (1) After final administrative determination of ownership, including final determination of all appeals, and the completion of all appropriate fund transfers, but not later than October 1, 1985, any funds remaining in an agency IMPL escrow account may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the governing body(s) of the tribe(s) at the location(s) where such agency IMPL escrow account is maintained. This authority to expend the escrow account funds ends September 30, 1987.

(2) The unobligated balances of all IMPL escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the U.S. Treasury.

PART 115—INDIVIDUAL INDIAN MONEY ACCOUNTS

Sec.

- 115.1 Definitions.
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- 115.10 Funds of deceased Indians other than the Five Civilized Tribes.
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AUTHORITY: R.S. 441, as amended, R.S. 463, R.S. 465; 5 U.S.C. 301; 25 U.S.C. 2, 9; 43 U.S.C. 1457.

SOURCE: 23 FR 7942, Oct. 15, 1958, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 115.1 Definitions.

As used in this part:

(a) The term "individual Indian money accounts" means those accounts under the control of the Secretary of the Interior or his authorized representative belonging to individuals.

(b) The term "minor" means an individual who has not reached his majority as defined by the laws of the State of his domicile.

§ 115.2 Osage agency.

The provisions of this part do not apply to funds the deposit or expenditure of which is subject to the provisions of Part 117 of this subchapter.

§ 115.3 Individual accounts.

Except as otherwise provided in this part, adults shall have the right to withdraw funds from their accounts. Upon their application, or an application made in their behalf by the Secretary or his authorized representative, their funds shall be disbursed to them. All such disbursements will be made at such convenient times and places as the Secretary or his authorized representatives may designate.

§ 115.4 Minors.

(a) Funds, other than a per capita share of judgment funds which exceeds \$100 in total amount at the time actual payment is made, including the investment income accruing thereto, of a minor may be disbursed in such amounts deemed necessary in the best interest of the minor for the minor's support, health, education, or welfare to parents, legal guardians, fiduciaries, or to persons having the control and

custody of the minor under plans approved by the Secretary, or the minor directly, upon such conditions as the Secretary may prescribe. The Secretary will require modification of an approved plan whenever deemed in the best interest of the minor.

(b) A per capita share of judgment funds which exceeds \$100 in total amount at the time actual payment is made, including the investment income accruing thereto, of a minor shall not be disbursed until the minor reaches 18 years of age. At that time, unless the minor is under legal disability, the minor shall be entitled to withdraw his judgment funds and accrued investment income as provided in § 115.3. If the minor is under legal disability upon reaching his majority, his judgment funds and accrued investment income thereon shall be handled pursuant to § 115.5.

[41 FR 48736, Nov. 5, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 115.5 Adults under legal disability.

The funds of an adult who is non compos mentis or under other legal disability may be disbursed for his benefit for such purposes deemed to be for his best interest and welfare, or the funds may be disbursed to a legal guardian or curator under such conditions as the Secretary or his authorized representative may prescribe.

§ 115.6 Voluntary deposits.

As a general rule, voluntary deposits shall not be accepted. Indians who require banking service shall be encouraged to utilize commercial facilities. If in any case it is determined that an exception to this prohibition should be made to avoid a substantial hardship, the facts in the case shall be considered by the Secretary or his authorized representative and an exception will be allowed or denied.

§ 115.7 Payments by other Federal agencies.

Moneys received from the Veterans Administration or other Government agency pursuant to the act of February 25, 1933 (47 Stat. 907; 25 U.S.C. 14), may be accepted and administered for the benefit of adult Indians under